

IN THE UNITED STATES COURT
FOR THE DISTRICT OF PUERTO RICO

BARCELONETA ENVTL. DEF.
COMM., INC., ET AL.,

Plaintiff,

v.

P.R. AQUEDUCTS & SEWER
AUTH., ET AL.,

Defendant.

Civ. No.: 12-1311(SCC)

MEMORANDUM AND ORDER

A year ago, this case very nearly settled. The parties reached an agreement in principle, and the Court granted a brief period for them to file a consent decree. *See* Docket No. 35. But a month after the agreement was reached, PRASA substituted an attorney from its general counsel's office for its previous counsel. *See* Docket Nos. 36–38. When PRASA did not act on its duty to go forward with approval of the consent decree, Plaintiffs requested a settlement conference. *See* Docket No. 39. Though we considered the case to have already settled,

we granted Plaintiffs' request. Docket No. 40. At the conference, PRASA's new counsel indicated that he wished to raise a jurisdictional defense not raised by former counsel. *See* Docket No. 41. Though we considered PRASA bound by its previous counsel's actions, we permitted PRASA to file a motion to dismiss solely because of its jurisdictional nature. *See id.* At the time, though, we made clear that PRASA would be "bound by the terms and conditions of the agreement" previously reached if its jurisdictional arguments failed. *See id.*

The motion that PRASA filed, however, *see* Docket No. 43, is patently meritless. It is putatively a motion to dismiss, but its sole ground for dismissal—that PRASA no longer controls the property in question—relies on facts not found in this case's pleadings. And PRASA fails to include any documentary evidence of this fact that would permit us to convert its motion to one for summary judgment. Instead, PRASA offers only its attorney's factual proffer, which, in this context, is entitled to no weight.

The motion is DENIED. In accordance with our previous Order, the parties have until May 5, 2014, to file a consent decree.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 19th day of March, 2014.

S/ SILVIA CARREÑO-COLL

UNITED STATES MAGISTRATE JUDGE